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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,625	06/20/2003	Joe Don Byles	P-8084.1	7192

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EXAMINER
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LEE, JONG SUK

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/600,625	Applicant(s) BYLES, JOE DON	
	Examiner Jong-Suk (James) Lee	Art Unit 3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group II directed to claims 11-44 in the reply filed on August 11, 2005 is acknowledged.

Claims 1-10 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Objections***

2. Claims 11, 12, 13 and 41 are objected to because of the following informalities:

Claim 11, line 3: "areaas" should be -- areas --.

Claim 11, line 10: "such as to" should be -- so as to --.

Claim 12, line 11: "a an area" should be -- an area --.

Claim 13, line 7: "a primary water...." should be -- the primary water... --.

Claim 41, line 2: "fo9am" should be -- foam --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 11: The limitation, "the primary porous structure" in lines 6-7 and "the porous material" in line 9, respectively, lacks clear antecedent basis.

Re claim 13: The limitation, "the mat" in line 5 lacks clear antecedent basis. Claims 14-17 are dependent upon claim 13.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-14, 16-33 and 35-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robey (US 4,023,506) in view of Jones (US 6,221,445).

Robey discloses a system and method for providing durability for an athletic field including an irrigation apparatus adapted to be incorporated into the root zone of a landscape/turf planting area to be irrigated, the apparatus comprising: a substantially continuous panel (see Fig.

1) which may be positioned substantially parallel to the area to be irrigated; a charge inlet (18) associated with the panel; a primary water distribution structure and air holding structure (47, 47b) comprising a porous and laterally permeable reticulated material, the panel includes a lower boundary material (34) selected from a substantially less porous material; the porous and laterally permeable primary water distribution material is selected from the group consisting of the reticulated material, and a granular material; the system further comprising a peripheral edge boundary material selected from a substantially less porous material, wherein the porous and laterally permeable primary water distribution material is an open cell foam material or reticulated material with webbed cellular structure (58) such that when filled with water or completely submerged in water air is trapped by the gaps and spaces in the material; a controlled release device/pump ( within the primary water distribution structure and air holding structure, the upper panel having a recessed area/mesh openings created at the time of installation by person installing the landscape plants (see Figs. 1-10; col.3, lines 11-68; col.4, lines 1-68; col.5, lines 1-35).

However, Robey fails to specifically disclose the peripheral edge boundary material being selected from the group consisting of a closed cell foam material or polymeric plastic material.

Jones discloses a composite artificial turf structure including the peripheral edge boundary material (19) being polymeric plastic material as depicted in Fig. 6 (see col.4, lines 15-67; col.5, lines 1-5).

Therefore, in view of Jones, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the peripheral boundary material for the

polymerized plastic material to reduce the manufacturing cost and efficiently handle the elements during the installation.

7. Claims 15, 34 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robey, as modified by Jones, as applied to claim 14, 23 and 36, respectively, and further in view of Daniel et al (US 3,908,385). The teachings of Robey modified by Jones have been discussed above.

However, the teachings of Robey modified by Jones fails to disclose or fairly suggest the flow controlled device regulating the amount of irrigation water.

Daniel et al discloses a system for controlling the moisture of planting field comprising a plurality of inlet charges/pipes (2, 4) begin controlled by moisture sensors (50), timers (78) and solenoids (74, 76) as depicted in Fig. 6 (see col. 4, lines 9-38).

Therefore, in view of Daniel et al, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the system of Robey, as modified by Jones, by adding the associated moisture control system with controlling the water flow rates in order to efficiently control the whole irrigation system.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose an under ground watering system, a planted surface moisture control system and a multilayered, porous mat turf irrigation apparatus and method.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (571) 272-7044. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**

/jjl  
November 4, 2005